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IN THE  
**SUPREME COURT OF THE UNITED STATES**  
OCTOBER TERM, 1943

HOLLAND FURNACE COMPANY, A CORPORATION,  
*Petitioner,*  
v.

DEPARTMENT OF TREASURY OF THE STATE OF INDI-  
ANA, HENRY F. SCHRIKKER, JAMES GIVEN, AND  
RICHARD I. JAMES, AS AND CONSTITUTING THE  
BOARD OF THE DEPARTMENT OF TREASURY OF  
THE STATE OF INDIANA,

No. 164

*Respondents.*

**PETITIONER'S REPLY BRIEF**

EARL B. BARNES,  
ALAN W. BOYD,  
BENJ. F. J. ODELL,  
*Attorneys for Petitioner.*

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Petitioner sold Michigan manufactured furnaces from its Michigan factory to an Indiana resident and as a necessary incident to the use of the furnace agreed to place it and guarantee its efficiency. The sale was major, and the installation minor. (Rec. pp. 24, 25.)

The question plainly, therefore, is whether such a transaction is interstate, under protection of the commerce clause, and exempt from State taxation.

If petitioner did not manufacture heating plants in Michigan it would not have anything to sell and install in Indiana. Its heating plants are all made in Michigan and sold from there.

Respondents are incorrect in saying so many times in their brief, that: "petitioner's receipts are from work and labor in Indiana." Petitioner's receipts were from out of State sales from Michigan activities although the furnaces had to be set up in Indiana to complete the sale. It seems to petitioner that this situation is on all fours with the Class "A" and Class "E" sales which the Supreme Court of Indiana, since the institution of this suit (March, 1943), held were not taxable under the Indiana Gross Income Tax Act, and further (and more important) held that income so received was not "derived from sources within the State of Indiana." (*Department of Treasury v. International Harvester Co.*, 47 N. E. 2d 150, 152.)

On the same page the Indiana Court also said: "The appellants would have us construe the statute as exempting only income derived entirely from activities outside of Indiana. This would distort the clear import of the language employed and violate the rule stated above."

May the writ be granted in this case.

Respectfully submitted,

EARL B. BARNES,

ALAN W. BOYD,

BENJ. F. J. ODELL,

*Attorneys for Petitioner.*

